

AVERY COUNTY NORTH CAROLINA

SOLID WASTE MANAGEMENT ORDINANCE 2001

PREAMBLE: An Ordinance for the management of solid waste to prevent dangers or threats to the health and safety of the Avery County populace.

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ORDINANCE FOR THE MANAGEMENT OF SOLID WASTE

1.0 PURPOSE, JURISDICTION, PRIOR ORDINANCES REPEALED

- 1.1** The purpose of this ordinance is to regulate the storage, collection, and disposal of solid waste in Avery County. This ordinance is adopted pursuant to the authority contained in G. S. 153A-121, 132.1, 136, 274 through 278, and 291 through 293 and 130A, 309.09, 309.09A, 309.09B, and 309.09D. Unless otherwise indicated, the ordinance applies to both publicly owned and privately owned municipal solid waste management facilities located in Avery County.
- 1.2** To the extent that any prior Avery County ordinance is in conflict with this ordinance, same is hereby repealed. Except as provided in this section, the provisions of this article shall not be applicable to and shall not be enforced within the corporate limits or jurisdiction of any municipality in Avery County. A municipality may come within the provisions of this ordinance at any time by mutual agreement with the county by the adoption of an appropriate resolution by the governing body of such municipality pursuant to G.S. 158A-122 agreeing that this ordinance shall be enforced within the corporate limits of the municipality.
- 1.3** In administering this ordinance, Avery County and any municipalities therein may, pursuant to an inter-local agreement, form a joint agency, designate a local agency or create a solid waste and litter control department within either Avery County or any municipal government. Under the supervision of the County Manager, there shall be a director of solid waste and litter control who shall have the overall responsibility for administering this ordinance. The County Manager shall have the authority to hire appropriate staff including litter control officers. Until such time as any such joint agency or solid waste and litter control

department is formed, the Avery County Manager shall be the designee for the enforcement of this Ordinance, and an officer designated by the Sheriff of Avery County shall be the Litter Enforcement Officer in charge of enforcing and administering this ordinance.

- 1.4** It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct the Litter Enforcement Officer while the Litter Enforcement Officer is carrying out any duty created under this ordinance.

2.0 DEFINITIONS

The following definitions apply in the interpretation and enforcement of this ordinance:

- A. Administrator: The administration and enforcement of this ordinance shall be the duty of the County Manager. The County Manager may amend the Avery County Solid Waste Management Plan or Ordinance from time to time after giving notice of intent to do so by publishing notice to the media in the county at least ten (10) days prior to the proposed revisions being made to the Board of County Commissioners for consideration and adoption.
- B. Applicable health regulations: Rules or regulations adopted by the state board of health or the county board of health, or both, pertaining to the management and disposal of solid waste. This definition shall include, but is not limited to, the "Rules and Regulations Providing Standards for Solid Waste Disposal," adopted by the state board of health as set forth in Bulletin No. 411, dated April, 1971. As amended, adopted or now in effect, compliance with all such regulations is required as provided in this chapter.
- C. Board: Board of Commissioners of Avery County.

- D. Bulky Waste: Large items of solid waste such as furniture, large auto parts, trees, branches, stumps, and other oversize wastes whose large size precludes or complicates their handling by normal solid waste collections, processing, or disposal methods.
- E. Collection: The act of removing solid waste (or materials that have been separated for the purpose of recycling) to a transfer station, processing facility, or disposal facility.
- F. Commercial solid waste: All types of solid waste generate by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial waste.
- G. Construction and demolition waste: Solid waste resulting solely from construction, remodeling, repair, or demolition operations on buildings, excluding residential and industrial waste.
- H. Department: The North Carolina Department of environment, health and Natural Resources.
- I. Garbage: All putrescible waste, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- J. Hazardous waste: Solid waste, or a combination of solid wastes, that because of its quantity, concentration or physical, chemical or infectious characteristics may:
 - 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - 2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- K. Health director: The director of the Toe River Health District or his authorized representative.
- L. Household solid waste: Trash, garbage and refuse resulting from the normal operation of a household and which is routinely placed in a

container or can for disposal. Household solid waste is not intended to include tree limbs, stumps, brush, rocks or substances accumulated from the destruction, construction or repair of a building or yard, such as cement, brick or lumber. It also does not include discarded furniture, household appliances, automobile parts or objects that constitute a hazard to the collector or the equipment used to collect and transport solid waste. The definition of solid waste includes household solid waste.

- M. Incineration: The process of burning solid, semi-solid, or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.
- N. Industrial solid waste: Solid waste generated by industrial processes and manufacturing.
- O. Inert debris: Solid waste that consists solely of material that is virtually inert and that is likely to retain its physical and chemical structure under expected conditions of disposal.
- P. Institutional solid waste: Solid waste generated by educational, health care, correctional, and other institutional facilities.
- Q. Land-clearing debris: Solid waste that is generated solely from land-clearing activities.
- R. Landfill: A disposal facility or part of a disposal facility where waste is placed in or on land and that is not a land treatment facility, a surface impoundment, an injection well, a hazardous waste long-term storage facility or a surface storage facility.
- S. Liquid Waste: Waste as defined in the "Solid Waste" definition in #LL of this document.
- T. Management of solid waste: The control, storage, collection, transportation and disposal of all forms of solid waste.
- U. Medical waste: Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, but does

not include any hazardous waste, radioactive waste, household waste as defined in 40 C.F.R. 261A(b)(1), or those substances excluded from the definition of "solid waste" in this ordinance.

- V. Municipal solid waste: Solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, or solid waste from mining or agricultural operations.
- W. Municipal solid waste management facility: Any publicly- or privately-owned solid waste management facility permitted by the Department that receives municipal solid waste for processing, treatment, or disposal.
- X. Open dump: The consolidation or collection of solid waste from one or more sources at a disposal site which has unsanitary conditions, insignificant or no cover, or insignificant or no management. This term shall include any disposal area that has not been approved by applicable health regulations.
- Y. Pathological waste: Human tissues, organs, and body parts, and the carcasses and body parts of any animals that were known to have been exposed to pathogens that are potentially dangerous to humans during research, were used in the production of biologicals or in in-vivo testing of pharmaceuticals, or that died with a known or suspected disease transmissible to humans.
- Z. Person: Any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- AA. Putrescible: Solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal, and animal carcasses.

- BB. Processing: Any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport; amenable to recovery, storage, or recycling; safe for disposal; or reduced in volume or concentration.
- CC. Radioactive waste: Waste containing any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously.
- DD. Recycling: The process by which solid waste or recovered materials are collected, separated, or processed, and reused or returned to use in the form of raw materials or products.
- EE. Refuse: Solid waste, other than garbage or ashes, from residences, commercial establishments, and institutions.
- FF. Regulated medical waste: Blood and body fluids in individual containers in volumes greater than 20 ml., microbiological wastes, and pathological waste that has not been treated pursuant to rules promulgated by the Department.
- GG. Resource recovery: The process of obtaining material or energy resources from discarded solid waste that no longer has any useful life in its present form and preparing the solid waste for recycling.
- HH. Sanitary landfill: A facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted pursuant to G.S. Ch. 130A, article 9.
- II. Scrap tire: A tire that is no longer suitable for its original, intended purpose because of wear, damage, or defect.
- JJ. Septage: Solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a septic tank system.
- KK. Sharps: Needles, syringes, and scalpel blades.
- LL. Sludge: Any solid, semisolid, or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water

supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects.

MM. Solid waste: Any hazardous or non-hazardous garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, institutional, commercial, and agricultural operations, and from community activities. The term does not include:

1. Fecal waste from fowls and animal other than humans;
2. Solid or dissolved material in
 - a. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment, and disposal systems that are designed to discharge effluents to the surface waters;
 - b. Irrigation return flows; and
 - c. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission.
3. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes.
4. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011);

5. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission.
- NN. Solid waste collector: Any person who collects or transports solid waste.
- OO. Solid waste disposal site: A location at which solid waste is disposed of by incineration, sanitary landfill, or other approved method.
- PP. Solid waste facility: Land, personnel, equipment or other resources of solid waste.
- QQ. Solid waste receptacle: Container used for the temporary storage of solid waste while awaiting collection.
- RR. Source separation: Setting aside recyclable materials at their point of generation by the generator.
- SS. Tire: A continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle as defined in G.S. 20-4.01(23).
- TT. Transfer station: A site at which solid waste is concentrated for transport to a processing facility or disposal site. A transfer station may be fixed or mobile.
- UU. Used oil: Any oil that has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become unsuitable for its original purpose.
- VV. White goods: In operative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.
- WW. Yard trash: Solid waste consisting solely of vegetative matter resulting from landscaping maintenance.

3.0 STORAGE AND DISPOSAL

- A. No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid waste on their property that is not stored or disposed of in a manner prescribed by this ordinance.

- B. Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting, fly-tight cover in place, with adequate handles or bails to facilitate handling. The capacity of the container may not exceed a maximum capacity of 35 gallons unless the containers are equipped with casters and can be serviced by being rolled to a collection vehicle, if applicable. Municipalities/residential solid waste receptacles, as defined by this ordinance, may also be used for storage provided they meet the requirements of this subsection. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.
- C. Refuse shall be stored in a manner that will resist harborage to rodents and vermin and will not create a fire hazard. Regulated refuse under this subsection includes, but is not limited to, lumber, boxes, barrels, bottles, cans, tires, paper, cardboard, rags, old furniture and other bulky waste, and white goods. Useful materials, such as firewood and building materials, may be stored on the premises, provided they are stored in a safe manner at a reasonable height above ground.
- D. No owner, occupant, tenant, or lessee of a building or dwelling may place or leave, or cause to be placed or left, outside the building or dwelling any bulky waste for longer than 72 hours.
- E. No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator, or other receptacle that has an airtight door without first removing the door.
- F. Solid waste shall be disposed of only in one of the following ways:
1. In a landfill approved by the Department;
 2. In an incinerator that has all required local, state, and federal control permits;

3. By any other method, including recycling and resource recovery, that has been approved by the Department.
- G. In addition to the methods listed in subsection G., above, refuse may be disposed of in municipalities/residential solid waste receptacles provided by the county.
- H. No person may discard, dispose, leave, or dump any solid waste on or along any street or highway or on public or private property unless such solid waste is placed in a municipalities/residential receptacle or at a location designated for the deposit of solid waste.
- I. Construction wastes must be disposed of at disposal sites approved and permitted by the Department.
- J. Regulated medical, hazardous, and radioactive waste must be disposed of according to written procedures approved by the Department.
- K. Any person collecting and transporting solid waste generated on such person's property for disposal at an approved disposal site shall comply with Sections 6.6 of this ordinance.
- L. All sharps shall be placed in a sealed, puncture-proof container prior to disposal.
- M. Open burning of solid waste is prohibited.

4.0 TRANSFER STATION MANAGEMENT

- A. The County Transfer Station may be used for the disposal of solid waste by county residents and nonresident property owners. The Transfer Station shall be open during business hours as established by the Board of Commissioners. In emergencies, the Transfer Station may be opened for additional hours as directed by the County Manager or the Manager's representative. Except when open during regular business hours the Transfer Station shall be kept locked and entry shall not be permitted. Solid waste shall be disposed of at the Transfer Station in the manner and according to procedures established by the County Solid Waste Director.

- B. The following wastes may not be disposed of at the Transfer Station:
1. Burning or smoldering materials, or any other materials that would create a fire hazard;
 2. Hazardous waste;
 3. Lead-acid batteries;
 4. Liquid waste;
 5. Untreated regulated medical waste;
 6. Radioactive waste;
 7. Tires; unless they have been halved or shredded;
 8. Used oil;
 9. White goods;
 10. Yard trash.
- C. No person may loiter or rummage about the Transfer Station or remove articles therefrom.
- D. No person may deposit material at any point of the Transfer Station except where indicated by authorized employees of the Transfer Station or by official signs.
- E. No person may discharge firearms, fireworks, or explosive on Transfer Station property.
- F. The maximum allowable speed of vehicles at the Transfer Station is ten miles an hour.
- G. The above rules shall also apply to any open sanitary landfill should any be established in Avery County in the future.

5.0 CONVENIENCE CENTERS

- A. Municipality/residential solid waste receptacles are maintained at convenience center sites throughout the county for the convenience of county residents, and nonresident property owners, on land owned or leased by the county. Solid waste may be deposited in the

municipality/residential receptacles only in accordance with the provisions of this ordinance.

B. The following wastes may not be deposited in municipality/residential solid waste receptacles:

1. Asbestos;
2. Burning or smoldering materials, or any other materials that would create a fire hazard;
3. Commercial waste;
4. Construction waste;
5. Hazardous waste;
6. Industrial waste;
7. Institutional waste;
8. Lead-acid batteries;
9. Liquid waste;
10. Radioactive waste;
11. Regulated medical waste;
12. Tires;
13. Used oil;
14. White goods;
15. Yard trash;
16. Sludges;
17. Barrels;
18. Sharps not properly contained.

C. All solid waste intended for disposal in a solid waste receptacle shall be deposited inside the container. No solid waste may be left at the solid waste receptacle site outside the receptacle.

D. No person may remove any item from a solid waste container, climb on or into a container, or damage any container.

6.0 ILLEGAL DUMPING PROHIBITED

6.1 Deposit near water or upon street or highway prohibited.

It shall be unlawful for any person to place, discard, dispose, leave or dump any trash, debris, garbage, litter, discarded cans or receptacles, or any waste matter whatsoever upon the banks of or in live or drainage water, a street or highway within Avery County or upon any property within the county unless such trash, debris, garbage, litter, discarded cans or receptacles, or any waste matter is placed in an authorized and lawfully designated location or container for removal by an authorized solid waste collector, or properly deposited at a convenience center operated by Avery County during the hours of operation of said convenience center. It shall be unlawful for any person to scatter, cast, throw, place, sweep or deposit anywhere within Avery County any litter in such manner that it may be carried or deposited by the elements upon any street, sidewalk, alley, body of water, sewer, parkway, lot, public property or private property. Any such unauthorized accumulation of litter is hereby declared to be a public nuisance and is prohibited.

6.2 Dumping on County Property Prohibited.

It shall be unlawful for any person to place, discard, dispose, leave or dump any trash, debris, garbage, litter, discarded cans or receptacles, or any waste matter whatsoever upon county-owned property unless it is placed in an authorized and lawfully designated location, or container.

6.3 Owner, lessee, etc., not to permit accumulation.

It shall be unlawful for any lessor or owner, lessee or occupant, or any agent, servant, representative of any such owner, lessee or occupant, having control of any lot or land in the county, regardless of whether the lot is occupied or not, to permit or maintain on any such lot or land, any unsanitary accumulation of any waste matter whatsoever.

6.4 Other Prohibited Practices.

- (a) Refrigerators and other airtight containers. It shall be unlawful for any person to discard or abandon any icebox, refrigerator, or other container, device or equipment of any kind with an interior storage area of more than 1 1/2 cubic feet of clear space which is airtight, without first removing the door or hinges from such icebox, refrigerator, container, device or equipment. This provision is to prevent entrapment and possible suffocation of children playing in or around such appliances. This subsection shall not apply to any icebox, refrigerator, container device or equipment which is being used for the purpose for which is/was originally designated, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof.
- (b) Failure to correct litter conditions. Failure of the owner, occupant or proprietor to remove or correct litter conditions within ten days after appropriate notice from the Litter Enforcement Officer shall be a violation of this Ordinance.

6.5 Duty of owner, lessee, etc., to remove.

It shall be the duty of any lessor or owner, lessee or occupant of any lot or land to remove or properly dispose of or cause to be removed or properly disposed of any open dump or unsanitary accumulation as often as may be necessary to comply with this ordinance, and if the requirements of this ordinance are not complied with, the Litter Enforcement Officer or his or her authorized representatives shall serve written notice, by registered or certified mail, upon the owner, lessee or occupant, if any, or upon any person having the care or control of any such lot or land to comply with the provisions of this Ordinance.

6.6 Collection and transportation generally.

No person shall collect or transport solid waste except in accordance with applicable health regulations, and no person shall transport waste in a manner that would allow waste to fall from a moving vehicle.

7.0 SOURCE SEPARATION AND RECYCLING

- A. Each person who owns, leases, or manages a residents, residential unit, or place of business, industry, commerce, or other place providing goods or services, of institution, church, or school shall remove recyclable materials from the solid waste generated as required in subsection B and make them available for recycling as required in subsection C. Nothing in this ordinance is intended to prevent any person from donating or selling recyclable materials to any other person.
- B. All recyclable material shall be separated from other solid waste and made available for recycling. Recyclable material shall not be mixed with or disposed of with other solid waste. Recyclable material shall consist of the following items and shall be prepared for recycling as directed:
 - 1. Glass: All brown and clear glass shall be rinsed. [Green glass not accepted; green glass should be disposed of in household waste.] Save all food jars and glass containers. Labels need not be removed but lids should be removed. Glass items not accepted include heat resistant ovenware, drinking glasses, mirrors, window glass, headlights, medicine bottles, ceramic cups and plates, clay flower pots, crystal and light bulbs. Florescent light bulbs should be left with the attendant to be stored separately.
 - 2. Aluminum Cans: Rinse all aluminum food and beverage cans. Labels need not be removed. Receptacles for aluminum cans will be provided at all material recovery sites.

3. Steel Cans: Rinse cans; labels need not be removed. Steel cans should be put in with scrap metal and white goods.
4. Metals and Appliances: Appliances such as refrigerators, stoves, hot water heaters and furnaces are accepted with other metals in specifically marked containers such as "White Goods." [Clean aluminum pie plates, foil, chairs, gutters and cast aluminum grills need to be separated from aluminum cans and put in with other scrap metals.]
5. Plastic: Plastic bottles include soft drink bottles and milk jugs. Containers should be rinsed and all lids removed. Plastic containers not accepted: Liquid detergent, margarine and butter, cool whip, and personal care products, toys, and caps or lids.
6. Cardboard: Corrugated cardboard should be flattened. Pizza boxes are not accepted because of food contaminates, nor are waxed boxes accepted. Flattened corrugated cardboard should be placed in designated containers.
7. Mixed Paper: Mixed paper includes newspaper, magazines, junk mail, paperback books, phone books, toothpaste boxes, calendars (no vinyl), posters (not covered in plastic), office paper and note pads. Items not accepted are blueprints, carbon papers, NCR paper, hardback books, milk cartons, detergent boxes, cardboard boxes and paper towels.
8. Oil: Used motor oil is accepted at designated containers at the County Garage and at the Transfer Station.
9. Tires: Tires are accepted at the Transfer Station.
10. Batteries: Automotive batteries are accepted at the Transfer Station and at the material recovery sites. Ask attendant for assistance in unloading these batteries. Flashlight and smaller batteries may be placed in with household garbage.

11. Paint: Liquid waste is prohibited from deposit at the Transfer Station. Paint cans should be taken to the material recovery sites and given to attendants. The paint is then poured into a metal drum for recycling and the can allowed to dry out. [Paint collected will be donated to local schools or civic organizations for use as base paint.]
 12. Pesticide Containers: Plastic pesticide and herbicide containers are ONLY accepted at the Altamont (Sam Brown Straight) site. Caps must be removed and containers rinsed thoroughly and punctured.
 13. Fluorescent Lights: Any size fluorescent lights are accepted at all collection sites.
- C. All recyclable material shall be placed in recycling collection centers provided by the county.
- D. Ownership of recyclable materials:
1. After recyclable material has been placed in a designated container at a collection center designed by the County of Avery or its authorized agent, or has been placed at curbside in designated containers for collection where this service is available, the recyclable material shall become the property of the County of Avery or its authorized agent.
 2. During the twelve-hour period commencing at 7:30 a.m. on any day preceding a day designated for curbside collection of recyclable material, no person, other than a county employee or the county's authorized agent, may remove recyclable material from a designated container that has been placed at a designated recycling location.
 3. No person, other than a county employee or the county's authorized agent, may remove recyclable material from a recycling collection center.

8.0 FLOW CONTROL

- A. All solid waste generated within the designated geographic area of the county solid waste management plan that is placed in the waste stream

for disposal or recycling shall be collected, transported, and disposed of at the county transfer station, county convenience centers, or the county landfill if applicable. The removal of solid waste from within the geographic area for disposal is prohibited. The disposal of solid waste generated in areas outside the boundaries of the county in county-owned municipal solid waste management facilities is prohibited. This section shall not be construed to prohibit the source separation of materials from solid waste prior to collection of such solid waste for disposal.

- B. No person, except licensed private collectors and county or municipal collectors, shall collect or remove any solid waste within the county for disposal.
- C. The County Solid Waste Director shall and is hereby empowered to establish a system of classification for classes of solid waste that shall be consistent with a system of classification in the solid waste management plan. The classification system shall be used as a basis for requiring that solid waste be delivered to an appropriate county disposal facility in accordance with the solid waste management plan.

9.0 LICENSING OF SOLID WASTE COLLECTORS

- A. No person may engage in business as a solid waste collector except under a license issued by the county pursuant to this ordinance.
- B. Applications for licenses to engage in the business of solid waste collector shall be filed with the County Solid Waste Director on forms approved by the County Solid Waste Director and attached hereto as Exhibit "A". The applicant shall furnish the following information:
 - 1. Name and address of the applicant and whether a sole proprietorship, corporation, or partnership, with disclosure of the ownership interests;
 - 2. A list of the equipment possessed, available, or to be obtained by the applicant, including motor vehicle license tag numbers;

3. Number of employees the applicant expects to use in the business;
 4. Experience of the applicant in solid waste collection;
 5. Balance sheet or equivalent financial statement as of the close of the applicant's last business year, showing the net worth of the business;
 6. Planned routes and areas of the county the applicant expects to serve;
 7. Schedule of fees the applicant expects to charge;
 8. Evidence of liability insurance coverage;
 9. Name and location of the facility where collected waste is to be disposed of.
- C. Before issuing a license pursuant to this section, the County Solid Waste Director shall inspect or cause to be inspected all facilities and equipment the applicant plans to use in the solid waste collection business.
- D. The County Solid Waste Director may issue the applicant a license only when he finds that the applicant's facilities, equipment, and proposed operating methods are in compliance with this ordinance and applicable rules of the Department and that the applicant will perform solid waste collection in an efficient and sanitary manner. A condition of the license shall be that the licensee shall serve every person who contracts with him for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this ordinance.
- E. If the County Solid Waste Director denies an applicant a license, the applicant may request a hearing before the County Manager and Solid Waste Director. The County Solid Waste Director shall keep tape recorded minutes of the hearing and at least one week after the hearing shall give the applicant written notice of his decision either granting the license or affirming his denial of the license. The applicant may appeal the County Manager's and Solid Waste Director's decision to the Board of County Commissioners by giving them written notice of appeal to the County

Manager within two days of receipt of the County Manager/Solid Waste Director's decision following the hearing. After a hearing on the appeal, the Board shall either affirm the denial or direct the County Solid Waste Director to issue the license.

- F. A license shall be valid for a period of one year from the date of issuance, and shall bear a sequential number.
- G. A licensee shall submit a written quarterly report to the County Solid Waste Director containing the following information:
 - 1. Number of customers added or deleted;
 - 2. Changes in routes;
 - 3. New and replacement equipment;
 - 4. Any other information requested by the County Solid Waste Director and pertinent to the solid waste collection business.
- H. Vehicles and containers used for the collection and transportation of solid waste shall be covered, leakproof, durable, and easily cleaned. They shall be cleaned as often as necessary to prevent a nuisance and insect breeding and shall be maintained in good repair. Vehicles shall display in letters and numbers at least three inches high the county license number of the licensee preceded by the letters "ACL."
- I. Vehicles and containers used for the collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill, and shall be covered to prevent the blowing of material. If spillage or leakage should occur, the material shall be recovered immediately by the licensee and returned to the vehicle or container, and the area properly cleaned.
- J. When the County Solid Waste Director finds that a licensee has violated this ordinance or the conditions of the license, the County Solid Waste Director shall give the licensee written notice of the violation and inform him that if another violation occurs within thirty days, or in the case of a continuing violation, if it is not corrected within ten days, the license will

be revoked. If another violation occurs within the thirty-day period, of, if the continuing violation is not corrected within ten days, the County Solid Waste Director shall give the licensee written notice that the license is revoked. Upon receipt of the notice of revocation, the licensee shall stop collecting, transporting, or disposing of solid waste. The County Solid Waste Director may reinstate a revoked license after the revocation has been in effect for thirty days if the engineer finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the Board of County Commissioners by giving written notice of appeal to the County Manager within ten days of receiving notice of revocation from the County Solid Waste Director. After a hearing on the appeal, the Board shall either affirm the revocation or direct the County Solid Waste Director to reinstate the license. The licensee shall reimburse the county for all remedial measure costs associated with the violation, if any, and the county may collect said costs in the manner prescribed by Section 11.3 (b) after 72 hours from the date of invoicing.

- K. No license issued pursuant to this chapter shall be assignable.

10.0 FRANCHISING SOLID WASTE COLLECTORS

- A. No person may engage in the business of solid waste collector unless he holds a franchise issued by the Board of County Commissioners authorizing him to collect, transport, and dispose of solid waste and describing the area for which the franchise is issued.
- B. No person may be issued a franchise by the Board unless he holds a license to engage in the business of solid waste collector issued by the County Solid Waste Director.
- C. Applications for franchises shall be filed with the Board, through the County Manager, on forms prescribed by the County Manager and attached hereto as Exhibit "B" and shall include a copy of the applicant's

license application to the County Solid Waste Director and any other information the Board deems pertinent.

- D. The Board may grant a franchise only upon finding that the applicant will render prompt, efficient, and continuing service to the area for which the franchise is granted and that the applicant has sufficient equipment and personnel to render service to all persons generating solid waste within the service area.
- E. The Board shall determine the area for which a franchise is granted.
- F. The Board shall set or approve all fees charged by solid waste collectors before granting a franchise. The Board may classify fees according to whether residential, commercial, institutional, or industrial customers are served, so that reasonable compensation may be provided in accordance with the public interest. The Board may amend fee schedules from time to time.
- G. A franchise shall be for a term not to exceed seven (7) years and shall be renewable.
- H. A solid waste collector franchised under this ordinance shall present to each prospective customer, in advance of any agreement with that customer, a schedule of his fees, as authorized by this ordinance, to be charged. All solid waste shall be removed from the customer's premises at least once a week, provided the customer is no more than thirty days in arrears in payment of the required collection fees.
- I. The Board may grant temporary franchises for the collection, transportation, or disposal of solid waste to provide service in the event of abandonment of an existing franchise or for other cause.
- J. Notwithstanding any other provision of this ordinance to the contrary, the Board may grant nonexclusive franchises for the collection of commercial, industrial, institutional, and construction and demolition wastes throughout the county.

- K. All disputes regarding the granting of a franchise and disagreements concerning franchised areas shall be determined by the Board.
- L. No franchise shall be assignable.
- M. A solid waste collector granted a franchise under this ordinance shall give thirty days written notice to the Board before abandoning the franchise.
- N. The Board may terminate or suspend all or any portion of a franchise for any of the following reasons:
 - 1. Loss of the franchisee's license to operate as a solid waste collector;
 - 2. Failure of the franchisee to comply with the authorized fee schedules;
 - 3. Failure of the franchisee to render prompt and effective service to persons within his service area;
 - 4. Failure of the franchisee to comply with any provision of this ordinance or applicable rules of the Department.

11.0 ENFORCEMENT

11.1 Enforcement of regulations and laws pertaining to management and disposal and this chapter.

The Litter Enforcement Officer is hereby authorized to enforce all applicable health regulations and laws pertaining to the management and disposal of solid wastes. In addition, such county officials and departments as the county manager may designate are charged with the administration, supervision, and enforcement of provisions contained in this chapter if not administered and enforced by the Litter Enforcement Officer.

11.2 Criminal penalties.

Any violation of any provisions of this ordinance shall constitute a class three misdemeanor pursuant to G.S. 14-4 and shall subject the violator to a fine not to exceed \$1,000.00. Enforcement shall be administered through the

issuance of a citation on the North Carolina Uniform Citation Form (AOC-CR-501).

11.3 Civil penalty in lieu of criminal charges.

In lieu of all other remedies herein, the violation of this ordinance shall subject the violator to a civil penalty as set forth herein.

- (a) The violator shall be issued a written notice of violation and penalty, which shall require payment to be made to the Sheriff Dept. within 72 hours of receipt of notice by the violator. Notice of the civil penalty and violation shall be delivered in person to the violator or mailed by certified mail, return receipt requested, to the owner's last known address.
- (b) Upon the violator's failure to pay the required amount within the designated 72-hour period, the enforcement officer acting through the County Attorney may institute a civil action in the nature of debt to recover such amount, and shall be entitled to recover all actual costs of collection.
- (c) It is the express intent of this section to be in lieu of and in the alternative to the criminal penalties stated herein.
- (d) Violation of the ordinance shall subject the owner to a civil penalty not to exceed \$5,000.00, the specific amount to be determined by the enforcement officer taking into consideration the nature and severity of the offense and prior violations.

11.4 Injunctions

Any provision of this article which makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement. When a violation of such a provision occurs, the enforcement officer acting through either the county attorney or applicable municipality attorney, or any resident of the county or applicable municipality, may apply to the General

Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful use of the property.

11.5 Entry

Any authorized personnel, representative, or official of the county charged with the enforcement this ordinance shall have the right, after exhibiting proper identification, to peacefully enter and inspect property for the purpose of determining if a violation or violations of such ordinance exist due to conditions existing upon property; provided that such entry shall be with the permission, freely given, of the owner or occupant of said property; and if such owner or occupant shall refuse to grant the right to enter and inspect, said personnel, representative, or official of the county shall have all the remedies allowed and provided by law, including Ordinance 4A of Chapter 15 of the North Carolina General Statutes entitled "Administrative Search and Inspection Warrants" and any amendments or successor statutes thereto. No application for a warrant shall be made under this section without the approval of the county attorney.

12.0 SEVERABILITY

It is hereby declared to be the intention of the Board of County Commissioners that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or invalid by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and actions of this Ordinance, since the same would have been enacted by the board of county commissioners without the incorporation into this Code of any such unconstitutional or invalid phase, clause, sentence, paragraph or section.

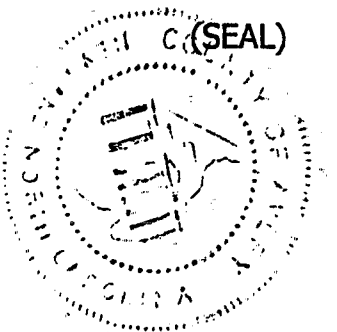
Adopted this 2nd day of January, 2001.

Kenny R. Poteat

Kenny R. Poteat, Chairman
Avery County Board of Commissioners

Nancy H. Cook

Nancy H. Cook
Clerk to the Board



BK / PG
3021115

FILED #

98 JAN 26 PM 1:07

✓ AVERY COUNTY ORDINANCE NO. 68

TAMELA T. BAKER
REGISTER OF DEEDS
AVERY COUNTY, N. C.

PREAMBLE: An ordinance of the County of Avery, North Carolina, providing for the charging of a tipping fee for all private users of the Avery County Solid Waste Transfer Station who deposit waste of any type or origin on the tipping floor of said transfer station.

BE IT ORDAINED by the Board of County Commissioners of the County of Avery, North Carolina, as follows:

SECTION 1: SHORT TITLE

This ordinance shall be known and may be cited as the "Revised Avery County Tipping Fee Ordinance".

SECTION 2: REVOCATION OF PRIOR ORDINANCES

The "Avery County Tipping Fee Ordinance" adopted November, 1997 is hereby rescinded.

SECTION 3: DEFINITIONS

- A. Board: Board of Commissioners of Avery County, North Carolina.
- B. Collection: The act of removing solid waste to the Avery County Solid Waste Transfer Station.
- C. Commercial Solid Waste: All types of solid waste generated by offices, motels, stores, restaurants, warehouses, and other facilities of a non-residential nature, whether by operation, construction, or repair of said facility or grounds.
- D. Municipal Solid Waste: Solid Waste resulting from the operation, construction or repair of residential, commercial, industrial, governmental, or institutional establishments or their grounds that would normally be collected, processed and disposed of through a public or private solid waste management service.
- E. Municipal User: Any governmental entity within Avery County, other than Avery County, which collects refuse from residences and businesses within or outside of the corporate limits of said governmental entity, for delivery by the municipality to the Avery County Solid Waste Transfer Station.
- F. Person: Any individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- G. Private user: Any individual, corporation, or other entity other than Avery County or a Municipality within Avery County which hauls refuse from any collection point or points in Avery County to the Avery County Solid Waste Transfer Station, for profit.

H. Refuse: Solid waste, garbage or ashes from residences, commercial establishments and institutions.

I. Residential Solid Waste: All types of solid waste generated by residential homes, whether generated by the occupants of said home, or the maintenance, repair, or construction of said home or grounds.

J. Tipping fee: An amount charged by the County per ton, for all types of waste deposited on the tipping floor of the Avery County Solid Waste Transfer Station.

SECTION 4: TIPPING FEE

THE Avery County Board of Commissioners do hereby establish a solid waste tipping fee on all municipal, commercial and residential solid waste or refuse collected and delivered to the Avery County Solid Waste Transfer Station by private users, and deposited on the tipping floor. The tipping fee shall be in the initial amount of \$43.00 per ton, being the cost to the County of the disposal of same. The amount of the fee may be modified from time to time by modification of this ordinance as provided by law. The amount of the total fee chargeable to each load shall be determined at the transfer station through a weight measurement system. The solid waste tipping fee so determined shall be invoiced monthly by the Avery County Finance Office. Provided, however, that private haulers shall be given credit for all tonnage collected and invoiced to municipalities, said tonnage figures to be reported to the Avery County Finance Office by any affected municipalities, to the end effect that no tipping fee shall be paid on refuse collected from within a municipality.

* 2.00
TAX
45.00

SECTION 5: ENFORCEMENT

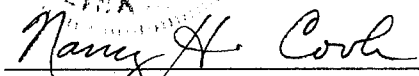
Any firm or entity which becomes in arrears more than sixty (60) days for tipping fees owed to the County of Avery shall be denied access to the Avery County Solid Waste Transfer Station until all arrearages are paid and satisfied in full.

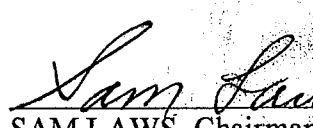
SECTION 6: EFFECTIVE DATE

This ordinance shall become effective upon adoption, as provided by law.

Adopted this the 20th day of January, 1998

ATTEST


NANCY H. COOK, Clerk to the Board
Avery County Board of Commissioners


SAM LAWS, Chairman
Avery County Board of Commissioners



3021117

STATE OF NORTH CAROLINA
COUNTY OF AVERY

Before me, the undersigned, a Notary Public in and for said County and State, on this 20 day of January 1998, personally appeared Samuel S. Laws, being and to me known to be the Chairman of the Board of Commissioners of the County of Avery, North Carolina, who, being by me duly sworn, says that by authority duly given by the Board of County Commissioners of said County, and as the act and deed of said Board of County Commissioners, the foregoing Ordinance entitled "Avery County Tipping Fee Ordinance" dated as of January 20, 1998 was signed by him as said Chairman of the Board of Commissioners on behalf and in the name of said County, and personally appeared, Nancy H. Cook, being and to me known to be the Clerk to the Board of County Commissioners who, being by me duly sworn, says that by authority duly given by said Board of County Commissioners she impressed the corporate seal of said County upon the foregoing Ordinance in execution thereof for and on behalf of said County and that she attested the same as said Clerk to the Board of County Commissioners by affixing her signature thereon in attestation thereof, and said Samuel S. Laws and Nancy H. Cook further acknowledge that said Ordinance is the act and deed of said Board of County Commissioners.

Witness my hand and notarial seal this the 20 day of January, 1998.

Carla D. Buchanan
Notary Public

Sept. 2, 2001
My Commission Expires:

NORTH CAROLINA } OFFICE OF REGISTER OF DEEDS
AVERY COUNTY

THE FOREGOING CERT. OR ANNEXED CERT. OF
Carla D. Buchanan N.P.
OF SAID CO., & STATE IS CERTIFIED TO BE CORRECT.
FILED FOR REGISTRATION AT 1:07 O'CLOCK P. M.
ON THE 20th DAY OF January 19 98
AND REGISTERED IN THIS OFFICE IN BOOK 302
AT PAGE 1115, THIS THE 20th
DAY OF January 19 98

Carla D. Buchanan
REGISTER OF DEEDS

